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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

IVAN RENE MOORE et al,

Plaintiffs and Appellants,

v.

PRO VALUE PROPERTIES, INC., et al.,

Defendants and Respondents.

B216061

(Los Angeles County
Super. Ct. No. BC 287209)

APPEAL from a judgment of the Superior Court of Los Angeles County, James R. Dunn, Judge. Affirmed.

Ivan Rene Moore and Kimberly Bragg, in pro. per., for Plaintiffs and Appellants.

Step toe & Johnson, Mark A. Neubauer and Meredith M. Moss for Defendants and Respondents Strategic Acquisitions, Inc.; Pro Value Properties, Inc.; and Peter Bauer.

Horton & DeBolt and Barton E. DeBolt for Defendants and Respondents Daphne Johnson and Steve D. Johnson.

No appearance for Defendant and Respondent Indymac Mortgage Holdings, Inc.

* * * * *

In our nonpublished opinion in *Hills v. Pro Value Properties, Inc.* (Aug. 8, 2008, B193025), we affirmed a judgment that denied the specific performance of a contract for the sale of a residence. We also affirmed the award of attorney fees with the exception of holding that one of the plaintiffs (Hill) was not liable for attorney fees.

Following the remand of the case, respondents Strategic Acquisitions, Inc., Pro Value Properties, Inc., and Peter Baer sought \$139,330.25 in attorney fees generated by the appeal that resulted in our opinion in *Hills v. Pro Value Properties, Inc.* The trial court awarded respondents \$120,360.75. Ivan Rene Moore and Kimberly Bragg appeal from this order; it appears that they are prosecuting this appeal in propria persona. Rene Moore Music, Inc., also filed a notice of appeal but failed to file an opening brief; the latter appeal was dismissed on February 4, 2010. We affirm.

THE FEE AWARD

The dimensions of this case in terms of the lawyers' time and effort are shown by the fee award of \$320,868.25 handed down at the conclusion of the trial of the specific performance action. That is, we approach this appeal with the understanding that this was no minor, short-cause case. Moreover, in the prior appeal the amount of fees awarded by the trial court was not challenged by appellants.

The trial court first found that billing rates upon which the requested fees were based were generally in the norm for the Los Angeles area. The court, however, went on to note that the billing rates of partners, ranging from \$475 to \$560, were not justified for "some of the tasks more appropriate for a paralegal or associate billing rate." The court found that virtually all of the appellate work was done by a partner billing at \$505 and \$560. The court concluded: "The court has gone through the bills and made a determination of what tasks could have been done by either an associate or paralegal with a lower billing rate and made adjustments accordingly. The resulting reduction is \$18,969.50 resulting in a fee award of \$120,360.75."

THE STANDARD OF REVIEW ON APPEAL

On appeal, we do not determine whether we agree with the amount of attorney fees awarded by the trial court. That is, we do not decide whether we would have

awarded the same or a different amount. Rather, we are required to give the trial court some latitude. As an example, a fee award of \$110,000, on the one hand, or a fee award of \$135,000, on the other, appear to be both reasonable in this case. We might think the award should be \$110,000. (This is only by way of an example and does not represent our opinion what the fee should be.) Nonetheless, we would not conclude that the trial court's award of \$120,360.75 must be set aside. The trial court has a certain amount of latitude or *discretion* in making the fee award. We decide whether the trial court *abused or exceeded the bounds of its discretion*, not whether we agree with the actual decision made. (*Jones v. Union Bank of California* (2005) 127 Cal.App.4th 542, 549.)

The reason for this is that the fee award is a factual determination and appellate courts generally defer to the trial courts when it comes to factual determinations. (*Christian Research Institute v. Alnor* (2008) 165 Cal.App.4th 1315, 1322.) The trial court knows firsthand the entire history of this case and the lawyers appearing in the case and is therefore in a better position than this court to determine the facts. It is only if the award is shocking or if there is no evidence to support the determination that we would conclude that there has been an abuse of the trial court's discretion. (*Jones v. Union Bank of California, supra*, 127 Cal.App.4th at p. 549.)

THE AWARD IS AFFIRMED

We are, of course, very familiar with the prior appeal. The appellate record was relatively large and required lawyer's time to perfect and review. The issues were not simple, as is shown by the fact that our prior opinion was over 14 pages long. And it is also true that appellants sought review in the California Supreme Court and that respondents had to react to this additional aspect of the appeal. All in all, the appeal required the expenditure of a substantial amount of lawyer's time.

Appellants state that the fee award is not reasonable. We do not agree. The trial court took careful account of the work that was done by the attorneys, concluded that some of the work could have been done by lower level personnel and reduced the fee request by \$18,969.50. This shows that the trial court exercised its best judgment in evaluating both the work done and who did it, or who should have done it. As we have

explained, we will not revise the fee awarded unless we conclude that the court abused its discretion. It is quite clear that the fees awarded in this case are well within the bounds of reason.

In their brief, appellants express dissatisfaction with the outcome of the case. One can readily understand why they are dissatisfied. The merits of the controversy, however, are not open to further discussion at this point and in this appeal; that was the subject of the prior appeal, which laid that subject to rest.

Other than claiming that the fee awarded was not reasonable, appellants provide no reason or reasons why the award should be set aside. We understand that appellants are in pro. per. but this does not mean that they are excused from giving a reason or reasons for their claim that the fee award should be set aside or modified.

DISPOSITION

The judgment is affirmed. Respondents Strategic Acquisitions, Inc., Pro Value Properties, Inc., and Peter Bauer are to recover their costs on appeal.

FLIER, J.

We concur:

BIGELOW, P. J.

RUBIN, J.